



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

NOV 6 2006

Thomas W. Noe

Tavernier, Florida 33070

RE: MUR 5871

Dear Mr. Noe:

On October 30, 2006, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. §§ 441f, 441a(a)(1)(A) and 441a(a)(3)(A), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). These findings were based on information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2). The Factual and Legal Analysis, which more fully explains the Commission's findings, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

Please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

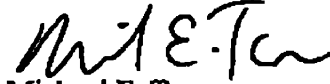
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If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Tracey L. Ligon, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Michael E. Toner
Chairman

Enclosures

Factual and Legal Analysis

Procedures

Designation of Counsel Form

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Thomas W. Noe

MUR: 5871

I. INTRODUCTION

This matter was generated by the Federal Election Commission ("Commission") pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities.

II. FACTUAL AND LEGAL ANALYSIS

The Federal Election Campaign Act of 1971, as amended ("the Act"), prohibits any person from making a contribution in the name of another person. *See* 2 U.S.C. § 441f. Likewise, the Act prohibits any person from knowingly permitting their name to be used to effect contributions made in the name of another person and from knowingly assisting in making such contributions. *See* 2 U.S.C. § 441f; 11 C.F.R. § 110.4(b)(1)(iii). In addition, during the 2003-2004 election cycle, a person could contribute no more than \$2,000 to a candidate and his or her authorized committee per election, and make no more than \$37,500 in contributions to candidates and the authorized committees of candidates during the period which begins on January 1 of an odd-numbered year and ends on December 31 of the next even-numbered year. *See* 2 U.S.C. §§ 441a(a)(1)(A) and 441a(a)(3) (2003).¹

On October 27, 2005, in the United States District Court for the Northern District of Ohio, Thomas W. Noe was indicted on charges of conspiracy, making illegal conduit

¹ The Bipartisan Campaign Reform Act of 2002 (BCRA), Pub. L. No. 107-155, amended subparagraphs 441a(a)(1)(A) and 441a(a)(3). Section 441a(a)(1)(A) was revised to increase the amount persons may contribute to Federal candidates to \$2,000 per election. Under former Section 441a(a)(1)(A), the limit was \$1,000. Section 441a(a)(3) was revised to establish new bi-annual aggregate limits that permit individuals to make, *inter alia*, up to \$37,500 in contributions to candidates and their authorized committees. Under former 2 U.S.C. § 441a(a)(3), individuals were permitted to make no more than \$25,000 in aggregate contributions per calendar year.

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contributions, and causing a false statement to be made to the Federal Election Commission.² Specifically, the indictment states that on or about October 30, 2003, Bush-Cheney '04, Inc. ("the Committee" or "the campaign") hosted a campaign fundraiser ("the fundraiser") at the Hyatt Regency hotel in Columbus, Ohio, to which the admission fee was a \$2,000 contribution – the maximum amount an individual could give to Bush-Cheney '04, Inc. Mr. Noe and his wife had each already contributed \$2,000 to the Committee on August 12, 2003. The indictment states that in order to fulfill a written pledge to raise \$50,000 for the campaign at the fundraiser, Mr. Noe used \$45,400 of his funds to make contributions over the legal limits and concealed the true source of the contributions by making them in the names of other individuals, known as "conduits." According to the indictment, Mr. Noe also recruited other individuals, referred to in the indictment as "super-conduits," who not only acted as conduits but also recruited additional conduits and passed funds from Mr. Noe to those additional conduits.

The indictment alleges that: (1) Mr. Noe requested that each conduit contribute money to the Committee in his or her own name and attend the fundraiser; (2) Mr. Noe provided funds from his National City Bank account for 24 conduits and super-conduits as an advance on, or reimbursement for, their contributions; and (3) he took steps to conceal the activity by making payments to several conduits in amounts slightly below the amount of the conduits' contributions, and instructing several conduits that, if asked in the future about the payments, they should lie and say the payments were a loan from Mr. Noe.³ With respect to the specific transactions, the indictment alleges that between on or about October 22, 2003, and on or about

² The criminal charges of conspiracy and defrauding the United States are not within the jurisdiction of the Commission.

November 3, 2003, Mr. Noe provided nine checks from his National City Bank account to the conduits listed in Table A below as an advance on or reimbursement for their contributions to the Committee, and the conduits deposited these checks into bank accounts they owned or controlled.

TABLE A

CONDUIT	DATE OF CHECK FROM NOE	AMOUNT OF CHECK FROM NOE	DATE OF DONATION	AMOUNT OF DONATION
1	10/22/03	\$1,750	10/22/03	\$2,000
2	10/23/03	\$1,950	10/23/03	\$2,000
3,4	10/23/03	\$4,000	10/24/03	\$4,000
5	10/23/03	\$1,950	10/24/03	\$2,000
6, 7	10/23/03	\$3,900	10/24/03	\$4,000
8, 9	10/23/03	\$3,750	10/31/03	\$3,900
10	10/24/03	\$2,000	10/24/03	\$2,000
11, 12	10/27/03	\$3,900	10/26/03	\$4,000
13	10/30/03	\$1,900	11/3/03	\$2,000

The indictment states that on or about the dates listed in Table B below, Mr. Noe provided two checks to two super-conduits (#14 and #17) who accepted the money and contributed a portion of the funds to the Committee in their own names, and also acted as super-conduits by writing checks themselves to five additional conduits listed in Table B as an advance on or reimbursement for contributions those conduits made to the Committee, and the conduits and super-conduits deposited these checks into accounts they owned or controlled.

³ According to the indictment, all but one of the conduits and super-conduits contributed the maximum permissible amount, with some adding small amounts of their own money to what Mr. Noe gave them; and all but one of them attended the fundraiser.

TABLE B

CONDUIT or SUPER- CONDUIT	DATE OF CHECK	AMOUNT OF CHECK	DATE OF DONATION	AMOUNT OF DONATION
14 (super-conduit)	10/23/03 (from NOE)	\$6,000	11/3/03	\$2,000
15	10/23/03 (from #14)	\$2,000	10/23/03	\$2,000
16	10/24/03 (from #14)	\$2,000	10/23/03	\$2,000
17 (super-conduit), 18	10/23/03 (from NOE)	\$14,300	10/24/03	\$4,000
19, 20	11/5/03 (from #17)	\$3,750	10/24/03	\$4,000
21, 22	10/27/03 (from #17)	\$3,500	10/14/03	\$4,000
23, 24	10/27/03 (from #17)	\$3,900	10,31/03	\$4,000

According to the indictment, conduits and super-conduits filled out donor cards and other contributor forms for the fundraiser stating that they were making contributions themselves with their personal funds when, in fact, they used Mr. Noe's funds to make contributions; and consequently, on January 29, 2004, the Committee filed a 2003 Year End Report with the Commission that "unknown to Bush-Cheney, '04, Inc." incorrectly identified the 24 conduits and super-conduits as the sources of the \$45,400 in contributions to the Committee.

On May 31, 2006, Mr. Noe pled guilty to the charges in the indictment. According to a DOJ press release, Mr. Noe admitted during his guilty plea hearing that in October 2003 he made contributions to Bush-Cheney '04, Inc. over and above the limit established by the Act and disguised the contributions by recruiting and providing money to friends and associates who then used Noe's money to make contributions in their own name; that he contributed \$45,400 of his own money through 24 such conduits; and that to avoid suspicion, he gave several conduits checks in amounts slightly less than the maximum allowable amount and instructed several conduits to falsely characterize his payments to them as loans. DOJ Press Release dated May 31,

2006, located at http://www.usdoj.gov/opa/pr/2006/May/06_crm_337.html (visited August 4, 2006).

Based on Mr. Noe's admission that he deliberately disguised his actions in this matter, as well as the conduct supporting his admission, there is reason to believe Thomas W. Noe:

(1) knowingly and willfully violated 2 U.S.C. § 441f by making contributions in the name of others; (2) knowingly and willfully violated 2 U.S.C. § 441a(a)(1)(A) by making contributions to Bush-Cheney '04, Inc. that exceeded \$2,000; and (3) knowingly and willfully violated 2 U.S.C. § 441a(a)(3)(A) by making contributions to Bush-Cheney '04, Inc. during the period between January 1, 2003 and December 31, 2004, that exceeded the individual limit of \$37,500.⁴

⁴ The knowing and willful standard requires knowledge that one is violating the law. *See Federal Election Commission v. John A. Damesi for Congress Committee*, 640 F. Supp. 985, 987 (D. N.J. 1986). An inference of a knowing and willful act may be drawn "from the defendant's elaborate scheme for disguising" his or her actions. *United States v. Hopkins*, 916 F.2d 207, 214-15 (5th Cir. 1990). *Id.* at 214-15.